

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

CRL.A.No. 1683 of 2003()

**AGAINST THE JUDGEMENT/ORDER IN CRLP.382/2003 Dated
24/09/2003
ST.383/1995 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT,
TRIVANDRUM**

APPELLANT/COMPLAINANT:

**P.SURESH KUMAR,
PANAYARA VEEDU, ATTARA LANE, KANNAMOOLA,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.L.MOHANAN

RESPONDENT/ACCUSED:

**JEEVAN KAINIKARA,
SIVODAYAM, ATTANI LANE, VANCHIYOOR,
THIRUVANANTHAPURAM.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.R.UDAYABHANU, J

Crl.A.No.1683 of 2003

Dated this the 12th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of CrI.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 15.10.2007.

The appeal is allowed.

**K.R.UDAYABHANU,
JUDGE**

csl